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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, DECEMBER 4, 2000

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

Ex Parte, In re: Investigation
of the appropriate level of
intrastate access service prices
of Verizon Virginia Inc.

CASE NO. PUC000242

ORDER ON PROPOSED SETTLEMENT

On August 8, 2000, Verizon Virginia Inc. ("Verizon Virginia") and the Staff of the State Corporation Commission ("Staff") filed a joint Motion to Approve Settlement of Case ("Motion") in Case No. PUC000003 and set forth a proposed Settlement Agreement ("Agreement") regarding intrastate access services and prices relative only to Verizon Virginia. Responses to this Motion were filed on August 14, 2000, by AT&T Communications of Virginia, Inc., and the Office of the Attorney General, Division of Consumer Counsel. On August 17, 2000, the Hearing Examiner assigned to Case No. PUC000003 entered a Certification of Ruling to the Commission recommending that the Commission separate consideration of the Agreement from the ongoing proceedings and establish a procedure for considering comments on the merits of the changes in the access rates set forth in said Agreement and any issues related thereto.

By Order dated September 13, 2000, we established this case to consider the Agreement separately from the issues remaining in Case No. PUC000003.¹ In that Order, we established a schedule for receiving comments or requests for hearing on the Agreement and set aside the date of November 7, 2000, for hearing evidence if there had been a request for hearing. None was filed. Comments on the Agreement were filed by AT&T Communications of Virginia, Inc. ("AT&T"), the Association of Communications Enterprises ("ASCENT"), and the Office of Attorney General's Division of Consumer Counsel ("Consumer Counsel"). Verizon Virginia filed reply comments.

ASCENT argues that the Telecommunications Act of 1996 requires access rates to be "cost-based" and asserts that "basing access charges on a negotiated agreement is improper, because there appears to be a direct correlation between [Verizon Virginia's] actual costs and access charges." ASCENT urges us to reject the Agreement and resolve this matter in a way "which would tie [Verizon Virginia's] access charges to costs."

We do not agree that the Telecommunications Act of 1996 imposes any particular pricing scheme on intrastate access charges. The original Communications Act clearly delineated the

¹ Commonwealth of Virginia ex rel. State Corporation Commission, Ex Parte, In re: Investigation of the appropriate level of intrastate access service prices.

areas subject to federal jurisdiction, i.e., interstate communications and services, from those remaining subject to state jurisdiction, i.e., intrastate communications and services. The Act does require that certain network elements be provided to competitors of the local exchange company at rates based on cost, but use of network elements is distinct from the access service to be provided using those elements.

AT&T did not suggest in its comments that federal law obligated the use of any particular pricing scheme and recognized that the Commission may find just reason to set prices at levels in excess of simple costs. That company did argue that the proposed prices contained in the Agreement represented, in its opinion, insufficient reductions from the present level of access charges. AT&T proposed alternatives for our consideration. It first argued for an immediate reduction of access rates to cost. Alternatively, it suggested we establish the price for local switching at $\frac{1}{2}$ cent per minute, rather than the 1 cent per minute rate envisioned in the Agreement, either as of January 1, 2001, or in $\frac{1}{10}$ cent increments beginning with a $\frac{9}{10}$ cent per minute rate January 1, 2001, and declining by an additional $\frac{1}{10}$ cent per minute each year concluding at January 1, 2005.

Consumer Counsel's comments focused on whether the savings to the interexchange carriers ("IXCs") from lowered access

prices would be passed on to their customers in the form of lowered rates. It noted that "Virginia consumers will see any benefit from this Agreement only if the IXC's pass these reductions along in the form of lower rates on in-state long-distance calls." Consumer Counsel asks that any order approving the Agreement should "explicitly require the IXC's, upon request by Staff, to provide information documenting whether, and the extent to which, savings arising from the reduction in intrastate switched access charges have been passed-along to Virginia consumers." Consumer Counsel notes, for example, that the legislature in Texas enacted a statute requiring the pass-through of access charge reductions in that state and that the Public Service Commissions in Illinois and Georgia have also ordered such results.

Verizon Virginia's reply comments dispute AT&T's assertions and proposals and support Consumer Counsel's recommendation that we impose requirements on the IXC's to demonstrate the pass-through of any savings.

NOW THE COMMISSION, having considered the documents and pleadings of record, the Agreement, and the comments and reply comments thereto, as well as the applicable statutes and rules, is of the opinion and finds that the Agreement is reasonable and should be approved. We find that the negotiated access price

reductions contained in the Agreement are in the public interest.

In our Order establishing Case No. PUC000003, we discussed that factors other than cost alone would be considered in establishing the proper level of intrastate access charges and invited all interested parties to submit testimony and evidence as to any other factors the Commission should consider in setting these prices. We agree with AT&T that Verizon Virginia's access rates will, even as reduced, remain above the cost of providing this service. From the outset of this investigation, the subject local exchange carriers were required to file cost studies so that the absolute floor of access prices could be determined, but cost alone has been only one of the factors for our consideration in setting access prices. For example, revenues earned by local exchange carriers from access service reduce the pressure on those carriers for increases to basic local exchange services.

The price reductions proposed in the Agreement are significant and substantial. Over a five-year period, Verizon Virginia will halve the rate for switched access. Over the period of the Agreement, this represents an estimated revenue reduction to that company of \$270 million, which it has agreed will not be made up in the form of higher rates for basic local

exchange services. We find no compelling reason to order further reductions at this time.

Correspondingly, we find no need at this time to impose upon the IXCs any reporting requirements regarding the pass-through of savings they have realized from the ordered access charge reductions. We have long relied upon market forces in Virginia to establish prices for interexchange services and find no evidence in the record here to suggest that that particular market will fail to continue to provide its benefits to Virginia consumers. Further, our notice order establishing this case did not suggest that any such reporting obligation was under our consideration. Among the IXCs, only AT&T, which has committed to pass-through savings to its customers, participated in this proceeding, and we are reluctant to impose unforeseen regulatory obligations upon carriers that might otherwise have been active participants in this matter, particularly as the record establishes no compelling reason to do so.

Accordingly, IT IS ORDERED THAT:

- (1) The Agreement is approved and adopted in its entirety.
- (2) Verizon Virginia shall forthwith file with the Division of Communications tariff revisions effecting the access price reductions contained in the Agreement and approved herein.

(3) Verizon Virginia shall make timely tariff revisions to effect each successive access price reduction contained in the Agreement and approved herein.

(4) There being nothing further to come before the Commission, this matter is dismissed.